

ARTICLE 16 DEVELOPMENT IMPACT FEES

1601 TITLE

This article shall be known as the City of Sedona Development Impact Fee Ordinance, and will be referred to in this article as “this ordinance.”

1602 LEGISLATIVE INTENT AND PURPOSE

This ordinance is adopted for the purpose of promoting the health, safety and welfare of the residents of the City of Sedona by:

- A. Implementing the City of Sedona Community Plan.
- B. Implementing the City’s plans for public facilities by requiring new development to pay its fair and proportionate share of the costs to the City of Sedona associated with providing necessary public services and public facilities to new development through the imposition of development fees and charges that will be used to finance, defray, or reimburse all or a portion of the costs incurred by the City for public facilities that serve such development.
- C. Setting forth standards and procedures for assessing DIFs and administering the Development Impact Fee program.

1603 DEFINITIONS

For purposes of this ordinance, the following definitions shall apply, except where the context clearly indicates a different meaning:

- A. **“Building permit”** means the permit required for construction as determined pursuant to Article 2 of the Land Development Code.
- B. **“Capital improvement”** means land or facilities for purposes constructing or improving public facilities; for transportation and transit, including without limitation, streets, street lighting and traffic-control devices and supporting improvements, roads, overpasses, bridges, and related facilities; storm drainage facilities; for parks and recreational improvements; for acquisition of open space; for public safety, including police and jail facilities; for public buildings of all kinds; and for any other capital project identified in the City’s Capital Improvement Plan or Flexible Capital Budget. Capital improvement also includes the design,

engineering, inspection, testing, planning, legal, land acquisition, and all other costs associated with construction of a public facility.

- C. **“Collection”** means the point at which the development impact fee is actually paid to the City.
- D. **“Development impact fee”** or **“DIF”** means a monetary exaction imposed by the City pursuant to this ordinance as a condition of or in connection with approval of a new development project for the purpose of financing, defraying, or reimbursing all or a portion of the costs incurred by the City for public facilities.
- E. **“Development”, “development project” or “new development”** means any project or activity involving or requiring the issuance of a building permit, but not a project involving or requiring a building permit to operate or remodel, rehabilitate, reconstruct or improve an existing structure, which does not change the density or intensity of use, nor the rebuilding of a structure destroyed or damaged by an act of God, nor the replacement of one mobile home with another on the same pad if no dwelling unit is added.
- F. **“Dwelling unit”** shall have the same meaning as set forth in Article 2 of the Land Development Code
- G. **“Impose”** means to determine that a particular new development project is subject to collection of a DIF as a condition of development approval.
- H. **“Nonresidential new development project”** means all development other than residential development projects. For purposes of this Article,
 - 1. **General Commercial** shall mean those types of uses as permitted within the following zoning districts or designations: C-1, C-2, OP, NC, non-lodging PD or T.
 - 2. **Lodging** shall mean hotel, motel, timeshare, bed and breakfast or similar lodging uses as permitted within the following zoning districts or designations: L, RC, RM, OP lodging PD, or T.
 - 3. **Heavy Commercial** shall mean those types of uses as permitted within the following zoning district or designation: C-3.

- I. **“Mobile home”** shall have the same meaning as “Manufactured Home” and “Mobile Home” as set forth in Article 2 of the Land Development Code.
- J. **“Multifamily residential development project”** means a residential development project in which a duplex dwelling, a group dwelling or a multiple dwelling is constructed, as those terms are defined in Article 2 of the Land Development Code.
- K. **“Public facilities”** means necessary public services that are permanent additions to the City’s assets, that are primarily financed by long-term debt instruments and not from the City’s annual operating budget, and which include design, construction, or purchase of land, buildings and facilities.
- L. **“Residential development project”** means any development undertaken to create a new dwelling unit.
- M. **“Single family dwelling”** shall have the same meaning as set forth in Article 2 of the Land Development Code. For purposes of this ordinance,
 - 1. **Low Density** means development of a single family dwelling in the following zoning districts or designations: RS-5A, RS-70, RS-36, or RS-35 or equivalent density development within a PD, PRD, or T zone.
 - 2. **Medium Density** means development of a single family dwelling in the following zoning districts or designations: RS-18A, RS-18B, RS-12, RMH-12, RMH-10, RS-10A, or RS-10B or equivalent density development within a PD, PRD, or T zone.
 - 3. **High Density** means development of a single family dwelling in the following zoning districts or designations: RS-6 or RMH-6 or equivalent density development within a PD, PRD or T zone.

604 APPLICABILITY

This ordinance shall apply to all development for which a development impact fee has been adopted pursuant to Section 1604 and which have not received applicable development review approvals pursuant to the Land Development Code as of the adoption date of

this ordinance. This ordinance shall apply to all fees and charges imposed by the City to finance different types of capital improvements and public facilities, the need for which is created by new development.

1605 NEEDS ASSESSMENT; NOTICE AND HEARING REQUIRED FOR ESTABLISHING OR INCREASING DEVELOPMENT IMPACT FEES; DIF REPORT

1605.01 Needs Assessment.

Before or in conjunction with the adoption of development impact fees, the City shall conduct a needs assessment for public facilities which are to be funded with the DIFs. The needs assessment shall:

- A. Determine and distinguish between existing deficiencies and projected new development needs.
- B. Inventory existing public facilities.
- C. Identify the level of service standard applicable to each of the inventoried public facilities.
- D. Identify the level of service standards upon which the DIF is to be based.

1605.02 Notice and Hearing Required for Establishing or Increasing Development Impact Fees.

- A. The City shall provide at least thirty (30) days advance notice of intention prior to establishing or increasing any development impact fee and shall release to the public a written report including a needs assessment and all other documentation that supports the assessment of a new or increased DIF and the method by which the development impact fees are calculated (a “DIF Report”).
- B. The City shall conduct a public hearing on the proposed new or increased development impact fee at any time after the expiration of the thirty (30) day notice of intention to assess a new or increased DIF and at least fourteen (14) days prior to the scheduled date of adoption of the new or increased DIF.
- C. A development impact fee assessed pursuant to this ordinance shall not be effective until ninety (90) days after its formal adoption by the City Council.

1605.03 Adoption of DIF Report and Public Facilities Needs Assessment.

That certain Development Impact Fee Calculation Update Report for the City of Sedona, Arizona, dated January , 1998, prepared by the Management Services Institute (“MSI Study”), three (3) copies of which shall be made available through the City Clerk’s office, is hereby adopted and incorporated herein as a complete Needs Assessment and DIF Report as to the following public facilities: Law Enforcement, Roadway and Transportation, Storm Drainage, General Government Services, and Parks & Recreation and Open Space. Adoption of the MSI Study by the City shall constitute compliance with the procedural requirements of this ordinance.

1605.04 Amendment Procedures.

Periodically, the City Manager or his designee shall report to the City Council, prior to the City Council’s adoption of the budget and revisions for the next fiscal year, with:

- A. Recommendations for amendments to this ordinance.
- B. Proposals for changes to development impact fee rates and schedules.

1606 ADMINISTRATION OF DEVELOPMENT IMPACT FEE PROGRAM

1606.01 Imposition, Calculation and Collection of Development Impact Fees.

- A. Except as provided in this ordinance and any amendment to this ordinance, the City shall impose development impact fees as a condition of approval of all new development projects.
- B. The base amount of each public facility development impact fee for each type of development project shall be calculated periodically and adopted by ordinance through the amendment procedures set forth in this ordinance.
- C. Development impact fees shall be imposed prior to issuance of any building permit.
- D. Development impact fees shall be collected by the City’s Community Development Department at the time and as a condition of issuance of a building permit.

1606.02 Development Impact Fee Accounts.

- A. The City shall establish a development impact fee account for each type of capital improvement for which a DIF is imposed. The development impact fees collected shall be deposited in each such account according to the type of public facility improvement. The funds of the account shall not be commingled with other funds of the City. Any account previously established for the deposit of funds which would have been development impact fees under this ordinance shall be deemed a development impact fee account for the purposes of this ordinance and shall be merged into a new development impact fee account where appropriate.
- B. Each development impact fee account shall be interest-bearing, and the accrued interest shall become part of the account.

1606.03 Use of Development Impact Fees.

- A. Development impact fees may be expended only for the type of capital improvements for which they were imposed, calculated, and collected, and only according to procedures established by this ordinance.
- B. Development impact fees may be used to repay the City if the City constructs the public facilities using other funding sources, and may be used to pay the principal, interest, and other costs of bonds, notes, and/or other obligations issued or undertaken by or on behalf of the City to finance such public facilities capital improvements.
- C. Where a private party constructs or dedicates public facilities for which a development impact fee has been adopted and which provides a direct benefit to properties owned by other private parties, the DIF may be used to repay the private party to the extent of the direct benefit to others.
- D. Where a development impact fee is not used for the purpose for which it was imposed or collected, such DIF shall be refunded pursuant to this ordinance. The refund shall be paid to the party who owns the property at the time the refund is made.

1607 DEVELOPMENT IMPACT FEE CREDITS

1607.01 Eligibility for Development Impact Fee

Credits; Method of Calculating Credits.

- A. A property owner who dedicates land or improvements or agrees to participate in (i) a development agreement in which funds for capital improvements are contributed to the City or in which public facilities are constructed and dedicated for and on behalf of the City, or (ii) community facilities district; or otherwise contributes funds for capital improvements or public facilities as defined in this ordinance, may be eligible for a credit reimbursement for such dedication or contribution against the development impact fee payable or paid.
- B. Any such credit against a DIF shall be in an amount equal to the value of the payer's contribution of funds or dedication of public facilities being funded by the development impact fee. The costs eligible for such credit include planning and design costs, actual construction costs, and the value of the land dedicated or granted by easement, subject to the determinations made by the City engineer set forth in Paragraph C below. Credit amounts shall not include interest.
- C. Except as provided in Section 1607.04, any application for credit must be submitted on forms provided by the City before development project approval at the development review stage as provided by Section 401 of the Land Development Code. Except as provided in Section 1607.04, if an application for credit is not made within this time frame, no credits shall given to or on behalf of the development.
- D. Except as provided in Section 1607.04, upon receipt of an application for credit against a DIF, the City Engineer shall determine:
 1. the value of the developer contribution to the City;
 2. whether the contribution or dedication meets capital improvement needs for which the particular development impact fee has been imposed;
 3. whether and to what extent the contribution or dedication provides a localized improvement benefitting the development;
 4. whether the contribution will substitute for a public facility or otherwise reduce the need for capital improvements anticipated to be provided with development impact fee funds;

5. the amount of the credit due the development;
 6. the development impact fee category or categories to which the credit(s) shall apply. In no event, however, shall the credit exceed the amount of the applicable DIF;
 7. the allocation of credit in dollar amounts per development parcel within the larger development.
- E. To make those determinations as required under Paragraph D above, the City Engineer shall consider appraisals, bids, estimates, invoices, projected costs to the City, and any other information supplied by the party claiming the credit or available to the City Engineer.
 - F. Except as provided in Section 1607.04 below, the City Engineer shall make those credit determinations as set forth in Paragraph D above not later than sixty (60) days after receipt of an application for credit from a developer.

1607.02 Development Impact Credits for Construction of Public Improvements.

To obtain a credit for construction of public facilities improvements, the portion of the development impact fee represented by a credit shall be deemed paid when the construction is completed and approved by the City or when adequate assurance or security for the completion of the construction has been provided.

1607.03 Development Impact Fee Credits for Dedication of Property.

To obtain credit for dedication of real property to the City, the dedication shall occur not later than the time at which the development impact fee is required to be paid.

1607.04 Development Agreements.

- A. Where a developer and the City enter into a development agreement in which funds for capital improvements are contributed to the City or in which public facilities are constructed and dedicated for and on behalf of the City, such development agreement shall set forth among other things:
 1. The total amount of the credit owed to a developer who constructs or dedicates such public facilities;

2. The legal descriptions of and allocation of credit in dollar amounts per development parcel within the larger development;
3. The development impact fee category or categories to which the credit(s) apply; and
4. The reason(s) for the credit.

1607.05 Recording of Credit Allocations; Time Limits on Applicability of DIF Credits.

Credits shall be recorded in such a manner as to allow the appropriate allocation of the credit to future applicants for building permits within the property. Credits shall be payable for a period of up to twenty (20) years from the date the City Engineer issues his credit amount determination or from the date of a final decision of appeal pursuant to Section 1607. After twenty (20) years, no credits shall be available.

1607.06 Credits for Existing Development Subject to Development Impact Fees.

- A. Developments for which partial, phased or otherwise staged development review approval has been received prior to the adoption date of this ordinance, or for which preliminary or final subdivision plat approval has been received prior to the date of this ordinance, and which are subject to payment of development impact fees pursuant to this ordinance, but for which a developer has contributed funds for capital improvements or public facilities as defined in this ordinance, may be eligible for a credit reimbursement for such dedication or contribution against the development impact fee payable.
- B. Such credits must be applied for within sixty (60) days of the effective date of this ordinance and if an application for credit pursuant this paragraph is not made within that time frame, no credits shall given to or on behalf of the development. The procedures for determining credits under this paragraph shall be the same as those set out in this Section above.

1607.07 Development Impact Fee Credits Non-Transferrable.

Credits shall not be transferable or assignable from person to person, from parcel to parcel or from development to development.

1608 APPEALS AND REFUNDS

1608.01 Application and Hearing; Procedures.

- A. Except as provided in Section 1607.03, one who has paid a development impact fee may appeal for a refund of all or a portion of the DIF by filing an application for refund within thirty (30) days after payment of such fee.
- B. The application for appeal shall contain, at a minimum, the following:
 1. An appeal cover sheet on a form provided by the City's Community Development Department.
 2. A legal description and tax assessor's parcel number(s) of the applicable property.
 3. A list by name and title, of all ownership interests in the property.
 4. A letter authorization for an agent.
 5. Date specific to the development sufficiently detailing the technical basis for the appeal.
 6. A receipt or other evidence that the development impact fee being appealed has been paid.
 7. An appeal fee of Two Hundred and Fifty Dollars (\$250) or such other amount as may be fixed from time to time by resolution of the City Council.
- C. Incomplete appeals applications shall not be processed.
- D. The Sedona City Council shall act as an appeals panel. A hearing shall be set not more than forty-five (45) days after receipt of a complete DIF appeal application. The appellant shall be given written notice of the date, time and location of the hearing as soon as practicable after submittal of the request, but in any event not less than five (5) days before the hearing. The written notice shall be sent by U.S. mail, first class, postage prepaid. Factual and technical evidence may be submitted on the appellant's behalf at the hearing. The Council may take whatever action with respect to the appeal as it deems appropriate.
- E. An appellant may provide a written waiver of one or more of the procedural requirements contained

in this section.

1608.02 Permissible Grounds for Refund Appeals; Findings.

- A. The owner of property for which a development impact fee has been paid may apply to the council for a refund as provided in Section 1606.03.D, or to the extent that (1) funds from others sources to which the property owner contributes are used to fund the capital improvements being funded by the development impact fee, and the payer of the DIF did not receive credit for such contribution at the time the DIF was paid; or (2) a credit given pursuant to Section 1607.01B was insufficient; or (3) the capital improvements to be funded with the DIF do not provide a benefit to the development, or (4) the benefit of the capital improvement to the development is less than was expected when the DIF was adopted.
- B. The Council shall refund all or a portion of the DIF if it makes one or more of the foregoing findings. The appellant shall have the burden of proof. The decision of the City Council shall be final.

1608.03 Refund for Time-Remote Benefit.

- A. The owner of a property for which a development impact fee has been paid may apply to the City for a “time-remote benefit refund” of all or a portion of the DIF by filing an application for refund not less than five (5) years after payment of the fee.
- B. For purposes of a “time-remote benefit refund”, the City shall refund all or a portion of the DIF to the extent appropriate if the appellant shows, and if the Council finds, that the public facilities to be funded with the DIF have not been provided or constructed and will not be provided or constructed within a time frame that will benefit the development. The procedures for appeal under this section shall be the same as those set out in Section 1608.01.
- C. Any portion of the development impact fee that has not been spent within ten (10) years for improvements that provide a beneficial use to the development that paid the fee shall be refunded. The refund, including accrued interest, shall be paid to the party who owns the property at the time the refund is made.

1609 WAIVER OF DEVELOPMENT IMPACT

FEE

The City Council may waive from development impact fee programs particular types and locations of development that are determined to serve an overriding public interest, provided, however, that the waiver does not result in an increase in the development impact fee for other properties in the City.

1610 CURRENT DEVELOPMENT IMPACT FEE SCHEDULE

There is hereby established the following development impact fees:

1610.01 Law Enforcement Development Impact Fee.

<u>Type of Development</u>	<u>Fee</u>
Single Family (per dwelling unit)- low density	\$65.57
Single Family (per dwelling unit) - medium density	\$65.57
Single Family (per dwelling unit) - high density	\$65.57
Multiple Family (per dwelling unit)	\$65.57
Mobile Homes (per dwelling unit)	\$65.57
General Commercial (per square foot)	\$0.208
Lodging (per sleeping room unit)	\$18.27
Heavy Commercial (per square foot)	\$0.033

1610.02 Roadway and Transportation Development Impact Fee.

<u>Type of Development</u>	<u>Fee</u>
Single Family (per dwelling unit) - low density	\$811.30
Single Family (per dwelling unit) - medium density	\$811.30
Single Family (per dwelling unit) - high density	\$497.88
Multiple Family (per dwelling unit)	\$533.50
Mobile Homes (per dwelling unit)	\$408.64
General Commercial (per square foot)	\$2.349
Lodging (per sleeping room)	\$863.16
Heavy Commercial (per square foot)	\$0.40

1610.03 Storm Drainage Development Impact Fee.

<u>Type of Development</u>	<u>Fee</u>
Single Family (per dwelling unit) - low density	\$764.45
Single Family (per dwelling unit) - medium density	\$369.05
Single Family (per dwelling unit) - high density	\$163.67
Multiple Family (per dwelling unit)	\$136.91
Mobile Homes (per dwelling unit)	\$150.12
General Commercial (per square foot)	\$0.112
Lodging (per sleeping room)	\$67.49
Heavy Commercial (per square foot)	\$ 0.126

1610.04 General Government Facilities & Equipment Development Impact Fee.

<u>Type of Development</u>	<u>Fees</u>
Single Family (per dwelling unit) - low density	\$153.20
Single Family (per dwelling unit) - medium density	\$153.20
Single Family (per dwelling unit) - high density	\$153.20
Multiple Family (per dwelling unit)	\$153.20
Mobile Homes (per dwelling unit)	\$153.20
General Commercial (per square foot)	\$0.032
Lodging (per sleeping room)	\$27.10
Heavy Commercial (per square foot)	\$ 0.032

1610.05 Parks & Recreation; Open Space Development Impact Fee.

<u>Type of Development</u>	<u>Fee</u>
Single Family (per dwelling unit) - low density	\$2377.59
Single Family (per dwelling unit) - medium density	\$2377.59
Single Family (per dwelling unit) - high density:	\$1914.22
Multiple Family (per dwelling unit)	\$1914.22
Mobile Homes (per dwelling unit)	\$2131.29
General Commercial (per square foot)	\$0.112
Lodging (per sleeping room)	\$ 67.84
Heavy Commercial (per square foot)	\$ 0.112

1610.06 Calculation of Cumulative Development Impact Fee.

For purposes of clarification, and not in addition to the foregoing, the following cumulative development impact fees are established by type of development:

<u>Type of Development</u>	<u>Total Fee</u>
Single Family (per dwelling unit) - low density	\$4172.11
Single Family (per dwelling unit) - medium density	\$3776.71
Single Family (per dwelling unit) - high density	\$2794.54
Multiple Family (per dwelling unit)	\$2803.40
Mobile Homes (per dwelling unit)	\$2908.82
General Commercial (per square foot)	\$ 2.813
Lodging (per sleeping room)	\$1043.86
Heavy Commercial (per square foot)	\$ 0.703